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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

ALONZO R. GIMENEZ, M.D.,
Respondent

ORDER ACCEPTING SURRENDER
LS9103071MED

A hearing was conducted in the above-captioned matter on February 10, 1992. The Administrative Law Judge submitted his Proposed Decision on August 14, 1992. The board considered the matter at its meeting of October 21, 1992, and issued its Final Decision and Order on November 10, 1992.

Thereafter, on November 19, 1992, Dr. Gimenez appealed the board's decision to circuit court. In July, 1995, the court ruled that the board's decision was "arbitrary," "not sustained by the record," and lacked "any findings to the ultimate material facts." The circuit court's decision was appealed to the Court of Appeals for District II, which issued its decision on July 2, 1996. The court of appeals found that the Wisconsin Supreme Court, in *Gilbert v. Medical Examining Board*, 119 Wis.2d 168, established that a finding by the board of unprofessional conduct by a physician in violation of sec. Med 10.02(2)(h), Code, requires findings which include five separate factual elements. Those elements were said to be:

- (1) what course of treatment the physician provided;
- (2) what the minimum standards of treatment required;
- (3) how the physician's treatment deviated from the standards;
- (4) how the treatment created an unacceptable level of risk; and
- (5) what course of treatment a minimally competent physician would have taken.

The court concluded that the board "must provide a plain and thorough written decision that summarizes its findings. This decision must separately identify the five Gilbert elements and discuss the evidence that relates to each element. The decision must also provide details of why the evidence supports the Board's findings." The court disagreed, however, with the circuit court's conclusion that the board's failure to fully document its reasoning warranted dismissal of the matter, and instead remanded the case back to the board with direction to reconsider its charges against Gimenez in light of the court of appeals' decision. The court directed that, in modifying its findings, the board must rely on evidence from a qualified medical expert who is able to credibly testify on the factor at issue to "a reasonable degree of medical certainty."

On March 20, 1997, the board reconsidered the matter in light of the decision of the court of appeals. Based upon that decision the board issued its Modified Decision and Order, by which Dr. Gimenez' license was suspended for six months or until he submit to an assessment of his medical skills by the U.W. Medical Education Department, and to complete any remedial education program recommended. Dr. Gimenez has not to date completed that requirement.

On August 24, 2000, the board considered a letter submitted by Dr. Gimenez dated August 7, 2000. The body of the letter states in its entirety, "I hereby voluntarily and permanently surrender my license #12171 to practice medicine & surgery in the State of Wisconsin."

Based upon the entire record in this matter, the board orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of the license of Alonzo R. Gimenez, M.D., to practice medicine and surgery in Wisconsin is hereby accepted.

Dated this 7th day of September, 2000.

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

Darold A. Treffert, M.D.
Secretary